

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Bobby Mosley,)	
)	
)	
Plaintiff,)	C.A. No.: 6:11-cv-1542-JMC
)	
v.)	ORDER
)	
)	
Lt. Chrissie Cofield; Lt. Kenneth Richards;)	
and Sheriff Ricky Chastain,)	
)	
Defendants.)	
_____)	

This matter is now before the court for review on the Magistrate Judge's Report and Recommendation [Doc. 15], filed on July 21, 2011, recommending the court partially dismiss Plaintiff Bobby Mosley's Complaint as to Defendant Sheriff Ricky Chastain, without prejudice and without issuance and service of process; the Complaint be served on the remaining Defendants, Lt. Chrissie Cofield and Lt. Kenneth Richards; dismiss Plaintiff's allegations and prayer for relief concerning declaratory and injunctive relief without prejudice; and proceed with Plaintiff's claim for monetary damages based on the remaining excessive force issue.

Plaintiff, proceeding *pro se*, filed this action under 42 U.S.C. § 1983 in which he alleges various constitutional violations in connection with alleged actions by Plaintiff. [Doc. 1]. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

This court incorporates by reference the Magistrate Judge's recitation of the procedural history and facts of this case. [Doc. 15, at 2-3].

Plaintiff was advised of his right to file objections to the Report and Recommendation [Doc.15 at 9]. However, Plaintiff filed no objections to the Report and Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th

Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Doc. 15] and incorporates it herein. It is therefore **ORDERED** that the Complaint is **PARTIALLY DISMISSED** without prejudice and without issuance and service of process, as to Defendant Sheriff Ricky Chastain. The Complaint is to be served on the remaining Defendants, Lt. Chrissie Cofield and Lt. Kenneth Richards. Plaintiff's allegations and prayers for relief concerning declaratory and injunctive relief is **DISMISSED**, without prejudice. Furthermore, Plaintiff's claim for monetary damages based on the remaining excessive force issue shall proceed.

IT IS SO ORDERED.

s/J. Michelle Childs
United States District Judge

Greenville, South Carolina
September 1, 2011